

Intro: 10/28/14  
Adopted: 11/24/14

**TOWNSHIP OF FAIRFIELD  
ORDINANCE #2014-15**

**AN ORDINANCE AMENDING THE TOWNSHIP CODE OF  
THE TOWNSHIP OF FAIRFIELD SO AS TO ADD  
CHAPTER IV, ARTICLE 22, ENTITLED "FILMING"**

**NOW, THEREFORE BE IT ORDAINED** by the Mayor and Township Council of the Township of Fairfield, County of Essex, State of New Jersey, as follows:

**SECTION 1.** Chapter IV of the Township Code of the Township of Fairfield, entitled "General Licensing," is hereby amended so as to create Section 4-22, entitled "Filming," which shall read in its entirety as follows:

**§4-22.1 Findings and Declarations.**

The Township Council finds and declares as follows:

A. Although the filming of motion pictures, television shows, advertising commercials, and other productions can sometimes bring positive exposure and economic benefits to a community, in many instances these activities can have negative side effects, unrelated to the subject matter or expressive content of the film or broadcast, that can seriously disrupt peace and good order or impose unanticipated costs on the Township, particularly the additional police protection often required.

B. Some of these negative side effects include: the presence of trucks and trailers to house equipment and cast, creating traffic and parking problems; the attractive nuisance created by the filming, which can attract crowds of onlookers; excessive noise and lighting; the erection and placement of filming equipment, which can obstruct public rights-of-way and other areas; activities extending well in to the late nighttime or early morning hours, disturbing neighbors' peace and quiet enjoyment; the necessity of a constant police presence to keep the site secure and maintain order; and disorderly activities committed by either crew or cast members, or visitors to the site.

C. These undesirable effects are particularly acute in residential neighborhoods, where residents have a legitimate and legally protectable right to be free from unwanted and unnecessary intrusions into the peace and sanctity of their homes.

D. Both the federal and state judiciaries have repeatedly reaffirmed that the protection of the well-being, tranquility, and privacy of the home, and the quality of life and aesthetic character of neighborhoods, is a legitimate governmental interest justifying reasonable time, place, and manner restrictions on expressive activities, including filmmaking.

E. This chapter is intended to advance that interest and control the undesirable effects of filmmaking.

#### **§4-22.2 Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**Filming.** The taking of still or motion picture, either on film, videotape, webcam, or digital recording medium, intended for viewing on television, in movie theaters, on the Internet, or for institutional uses.

**Public Lands.** Any and every public street, highway, sidewalk, Public Park, playground or any public place which is within the jurisdiction and control of the Township of Fairfield.

**Residential Zone.** Areas zoned as Residential, pursuant to Chapter 45 of the Township Code.

#### **§4-22.3 Location Restrictions.**

A. Residential zones. The filming of any motion picture, television show, or advertisement, produced for commercial or profit-making purposes and for distribution or dissemination in movie theaters, on cable or broadcast television, or over the internet, is prohibited in Fairfield Township's Residential Zones.

B. Exceptions. The prohibition in Subsection A does not apply to:

- (1) Coverage of news events or matters of public importance by print, broadcast, or electronic media.
- (2) Filming of limited duration, intended for personal, documentary, or promotional purposes, conducted primarily or exclusively in the interior or immediate exterior of a residential dwelling, that does not involve a movie studio or production company.

#### **§4-22.4 Permit Required.**

A. Permission to film. The filming of motion pictures, television shows, and advertisements, produced for commercial or profit-making purposes and for distribution or dissemination in movie theaters, on cable or broadcast television, or over the internet, is permitted in any area in the Township in which it is not prohibited pursuant to § 4-22.3A, provided a permit is obtained as provided herein.

B. Permit requirements. To obtain a film permit, the following requirements must be satisfied:

- (1) Issuance. Permits may be obtained from the office of the Township Clerk upon the filing of an application and payment of all fees required pursuant to this chapter.
- (2) Permit fee. A fee of \$350 per permit shall apply.

- (3) Number of permits. A permit is required for each location where filming will take place.
- (4) Application deadline. Permits must be applied for no later than 14 days prior to the scheduled filming.
- (5) Content of permits. Permits shall state the approved location, dates, and times of filming and any conditions imposed thereon.
- (6) Duration of permits. Permits shall be valid for a minimum of one day and a maximum of 10 days calculated from the date of issuance.
  - (a) If because of inclement weather or other good cause, filming must extend beyond the approved dates, the Township Clerk may issue upon request an extension of the original permit, with no additional fees, for the days remaining thereon.
  - (b) Requests for a longer duration shall be submitted to the Governing Body. If the request is granted, the fee shall be \$35.00 per additional day for each location. In rendering a decision for an extension of time, the Governing Body shall objectively consider the requirements of this chapter, the information provided in the permit application, any recommendations provided by other Township officials, and any support or objections expressed by the general public.
- (7) Insurance. As part of the application, the applicant must present proof of insurance coverage for bodily injury in the amount of \$1,000,000 and for any aggregate occurrence in the amount of \$3,000,000. The Township of Fairfield shall be named an additional insured on the policy and a certificate of insurance evidencing the required coverage must be submitted with the application.
- (8) Notice. Applicants are required to provide written notice to any residents, businesses, and merchants located within a two-hundred-foot radius of the film site. The notice shall state the location and approximate duration, and describe the nature and extent, of the filming. Proof of this notice shall be submitted as part of the application.
- (9) Hold harmless/indemnification. Applicants must agree to hold harmless, defend and indemnify the Township for any and all claims, liabilities, judgments, and damages, including reasonable attorneys' fees and costs of suit, resulting from death, bodily injury, or property damage arising out of or in any way connected with their filming activities.
- (10) Additional police protection. If the Township determines that additional police protection is necessary to maintain peace and good order and control traffic and spectators at the film site, the full cost thereof shall be paid by the applicant. The applicant shall execute an agreement with the Township setting forth the terms and conditions of this arrangement as provided in Chapter 2, Article 8 of the Township's Code Book.

C. Exceptions: The permit requirement does not apply to:

- (1) Coverage of news events or matters of public importance by print, broadcast, or electronic media.
- (2) Filming of limited duration intended primarily for personal, documentary, or promotional purposes that does not involve a movie studio or production company.

D. Rules and regulations. Once a permit is obtained, permit holders must abide by the following rules and regulations. Failure to do so shall result in a revocation of the permit and immediate suspension of all filming activities.

- (1) Permit holders shall take all reasonable measures to minimize interference with the free passage of pedestrians and vehicular traffic over public lands and shall comply with all lawful directives issued by the Fairfield Police Department pertaining thereto.
- (2) Permit holders shall film only in permitted areas.
- (3) Permit holders shall minimize inconvenience or discomfort to adjoining property owners and, to the extent practicable, abate noise and park vehicles associated with filming off public streets.
- (4) Permit holders shall avoid any interference with previously scheduled activities upon public lands and limit to the extent possible any interference with normal activity in public areas.
- (5) Permit holders shall abide by all federal, state, and local laws and regulations.
- (6) Filming may take place between the hours of 8:00 a.m. and 9:00 p.m. Upon the applicant's request, a waiver may be granted by the Township Administrator to film at earlier or later hours, but in no case earlier than 6:00 a.m. or later 11:00 p.m., provided applicant sufficiently demonstrates that earlier or later filming will not negatively impact the surrounding area or adjoining property owners.

E. Review and approval.

- (1) Permit applications shall be reviewed by the Township Administrator and any other Township official he or she designates.
- (2) The Township Administrator shall render the final decision whether to grant or deny a film permit pursuant to this chapter. In rendering a decision, the Township Administrator shall objectively consider the requirements of this chapter, the information provided in the permit application, any recommendations provided by other Township officials, and any support or objections expressed by the general public.
- (3) Permits may be denied on any or all of the following grounds:
  - (a) The time and location of the filming violates any law or Township ordinance, or will violate the States noise standards.

- (b) Filming would unreasonably interfere with the use and enjoyment of adjoining properties.
  - (c) Filming would unreasonably impede the free flow of vehicular or pedestrian traffic.
  - (d) Filming would endanger the public's health, safety, or welfare, or otherwise create a public nuisance.
  - (e) Filming would negatively affect residents' quality of life.
  - (f) Filming would negatively impact local businesses.
  - (g) Filming would unduly strain Township resources.
  - (h) Noncompliance with the provisions of this chapter.
  - (i) Other municipalities' experience with the applicant's activities.
  - (j) The cast or crew's prior criminality.
- (4) The Township Administrator's decision shall be communicated in writing to the applicant. Denials shall be accompanied by a brief statement of reasons therefor.
  - (5) The grant of a permit may be limited by conditions to mitigate the negative impact of filming. Those conditions shall be stated in the permit.

F. Appeal. An aggrieved applicant may appeal the denial of a film permit, or the imposition of any conditions imposed thereon, in accordance with the procedures set forth in this section.

- (1) Time for appeal. The appeal must be submitted in writing to the Township Administrator no later than seven business days following the decision denying or conditionally approving the film permit.
- (2) Appeal panel. The appeal will be reviewed by a three-member panel composed of the Chief of Police, or his designee; the head of the Engineering Department or Building Department; and a third member appointed by the Township Administrator. The appeal will be adjudicated based on the written submissions of the parties, unless a conference is requested by the appeal panel.
- (3) Standard of review.
  - (a) The denial of a film permit, or the imposition of any conditions thereon, may be overturned only upon a showing by clear and convincing evidence that the filming will not produce any of the negative effects upon which the original denial was based.
  - (b) The denial of a film permit pursuant to § 4-22.3A may be overturned only upon a showing by clear and convincing evidence that the filming: i) will not result in the negative effects identified § § 4-22.1 or § 4-22.4D(3); ii) will be completed in less than three days; iii) will take place largely in the interior of the residential dwelling; iv) will not violate any applicable Township zoning ordinance; and v) will comply with all other provisions of this chapter.

Intro: 10/28/14  
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- (4) Decision on appeal. The panel shall issue written decision affirming, reversing, or modifying the original determination no later than 21 days following the filing of the appeal.


**§4-22.5 Violations.**

Violation of this Chapter shall be punishable by penalty pursuant to Section 1-5 of the Township Code.

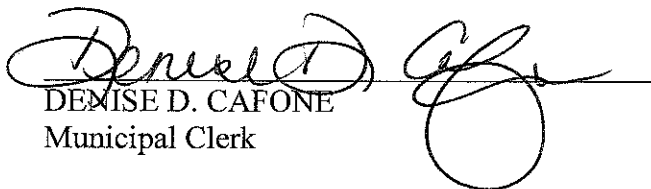
**SECTION 2.** This ordinance shall take effect after second reading and publication as required by law.

**SECTION 3.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**SECTION 4.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

  
\_\_\_\_\_  
JAMES W. GASPARINI  
Mayor

ATTEST:

  
\_\_\_\_\_  
DENISE D. CAFONE  
Municipal Clerk

**NOTICE**

**Notice** is hereby given that the foregoing Ordinance was submitted in writing at a meeting of the Mayor and Council of the Township of Fairfield, County of Essex, State of New Jersey, held on October 28, 2014, introduced and read by title and passed first reading, and that said Governing Body will further consider the same for second reading and final passage thereof at a meeting to be held on November 24, 2014 at 7:30 p.m. at the Municipal Building, 230 Fairfield Road, Fairfield, New Jersey, at which time and place a public hearing will be held thereon by the Governing Body and all persons and citizens of interest shall have an opportunity to be heard concerning same.

DENISE D. CAFONE  
Municipal Clerk

Intro: 10/28/14  
Adopted: 11/24/14

**INTRODUCTION OF ORDINANCE #2014-15 – October 28, 2014:**

INTRODUCED BY: Council President LaForgia  
SECONDED BY: Councilman McGlynn  
PUBLISHED: November 6, 2014

**ROLL CALL VOTE**

| GOVERNING BODY                     | AYES | NAYS | ABSTAIN | ABSENT | NO VOTE |
|------------------------------------|------|------|---------|--------|---------|
| COUNCIL PRESIDENT<br>JOHN LAFORGIA | X    |      |         |        |         |
| COUNCILMAN<br>MICHAEL B. MCGLYNN   | X    |      |         |        |         |
| COUNCILMAN<br>JOSEPH CIFELLI       | X    |      |         |        |         |
| COUNCILMAN<br>THOMAS J. MORGAN     | X    |      |         |        |         |
| MAYOR<br>JAMES GASPARINI           | X    |      |         |        |         |

**2<sup>ND</sup> READING AND PUBLIC HEARING - November 24, 2014**

INTRODUCED BY: Councilman McGlynn  
SECONDED BY: Councilman Cifelli  
PUBLISHED: December 4, 2014

**ROLL CALL VOTE**

| GOVERNING BODY                     | AYES | NAYS | ABSTAIN | ABSENT | NO VOTE |
|------------------------------------|------|------|---------|--------|---------|
| COUNCIL PRESIDENT<br>JOHN LAFORGIA | X    |      |         |        |         |
| COUNCILMAN<br>MICHAEL B. MCGLYNN   | X    |      |         |        |         |
| COUNCILMAN<br>JOSEPH CIFELLI       | X    |      |         |        |         |
| COUNCILMAN<br>THOMAS J. MORGAN     | X    |      |         |        |         |
| MAYOR<br>JAMES GASPARINI           | X    |      |         |        |         |